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To: OMH Providers
From: OMH Central Office
Date: May 1, 2023
Subject: OMH Telehealth Guidance Effective Dates

This memo clarifies the effective date for the “[April 2023 Telehealth Services Guidance for OMH Providers](#)” released on April 13, 2023. The effective date of this guidance is 5/12/2023, consistent with the end of the Federal Public Health Emergency (PHE), which ends at the end of the day on 5/11/2023. OMH expects providers to rapidly review and come into compliance with this guidance. We will begin incorporating the terms of the updated telehealth guidance in OMH’s certification reviews effective 8/1/23. Correspondingly, OMIG will be informed of this date to use for future audits.

Audio-only Behavioral Health Services

The February 2023 [DOH Medicaid Update](#), *Special Edition: Comprehensive Guidance Regarding Use of Telehealth including Telephonic Services After the Coronavirus Disease 2019 Public Health Emergency*, Volume 39, No. 3 includes updates on audio-only telehealth.

1. The NYS Medicaid program adopted a new modifier, FQ, for Medicaid behavioral health services provided via audio-only telehealth in February 2023. This DOH Medicaid Update guidance is effective 5/12/2023; however, providers will not be sanctioned for failing to use this modifier after such date, as long as providers are actively working towards compliance, including making necessary changes to their Electronic Health Records (EHRs) and billing systems to be able to include this modifier on claims. We expect providers to take steps to start using the modifier as soon as possible so the state can accurately track modalities of telehealth utilization. See p. 41 of the above referenced OMH guidance for further information about telehealth modifiers.

Regarding concerns about processing claims including FQ:

- eMedNY has been updated to accept claims including FQ
- The State understands this change can require significant EHR and billing system reconfiguration and expects OMH providers to start using it as soon as possible post-PHE, but no later than August 1, 2023. Mainstream Medicaid Managed Care Plans, Health and Recovery Plans (HARPs), HIV Special Needs Plans (HIV SNPs), and Medicaid Advantage Plus (MAP) Plans (collectively referred to as “MMCPs” herein) are required to complete system reconfiguration to accept the new modifier as soon as possible but no later than August 1, 2023. The NYS Department of Health has instructed MMCPs to update their systems and not deny claims based on the presence or absence of the FQ modifier.

2. The Medicaid update requires that providers must document a justification for each audio-only encounter, including whether the patient preferred audio-only services or that audio-visual telehealth was not available and why. Providers must also make audio-visual or in-person appointments available upon request and ensure that services can be delivered effectively without an a visual or in-person component. While the DOH guidance has an effective date of 5/12/23, DOH has acknowledged that other state agencies may adopt individual policies reflective of the needs and circumstances of the populations they serve. Accordingly, OMH will delay the effective date for this requirement for OMH licensed or designated services to 8/1/23.

End of the Public Health Emergency Telehealth Impacts

The OMH [end of PHE memo](#) details changes to service delivery that will be effective after the PHE ends at the end of the day on May 11, 2023. The Telehealth related changes in this guidance have a firm effective date of May 12, 2023. Please note specifically the provisions on:

1. Seeking permanent approval for Telehealth services
2. Permissible locations for the Telehealth Practitioner and individual receiving services in Partial Hospitalization, Continuing Day Treatment, and Day Treatment for Children and Adolescents